

103D CONGRESS
1ST SESSION

S. 160

To amend the Internal Revenue Code of 1986 to promote investment in small businesses by providing Federal tax relief and simplification for such businesses and their investors.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. DOLE (for himself, Mr. PACKWOOD, Mr. PRESSLER, Mr. DOMENICI, Mr. DANFORTH, Mr. NICKLES, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, Mr. MACK, Mr. COCHRAN, and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to promote investment in small businesses by providing Federal tax relief and simplification for such businesses and their investors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business Investment Act of 1993”.

6 (b) AMENDMENTS OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. PURPOSE.**

6 It is the purpose of this Act to simplify Federal tax
 7 laws applicable to small businesses. The resulting decrease
 8 in operating costs and increase in economic return will
 9 stimulate small business investment and create new jobs.

10 **SEC. 3. EFFECTIVE DATE.**

11 Except as otherwise provided, the amendments made
 12 by this Act shall apply to taxable years beginning after
 13 December 31, 1992.

14 **TITLE I—INVESTMENT**
 15 **INCENTIVES**

16 **SEC. 101. INCREASE IN SMALL BUSINESS EXPENSING AL-**
 17 **LOWANCE.**

18 Section 179(b)(1) (relating to dollar limitation) is
 19 amended by striking “\$10,000” and inserting “\$25,000”.

20 **SEC. 102. ELECTION TO EXPENSE SMALL BUSINESS START-**
 21 **UP EXPENDITURES.**

22 (a) GENERAL RULE.—Section 195 (relating to treat-
 23 ment of start-up expenditures) is amended by redesignat-
 24 ing subsections (c) and (d) as subsections (d) and (e), re-

1 spectively, and by inserting after subsection (b) the follow-
2 ing new subsection:

3 “(c) ELECTION TO EXPENSE.—

4 “(1) GENERAL RULE.—Notwithstanding sub-
5 section (a), start-up expenditures may, at the elec-
6 tion of a qualified taxpayer, be allowed as a deduc-
7 tion for the taxable year in which the active trade
8 or business begins. The amount of start-up expendi-
9 tures allowed as a deduction under the preceding
10 sentence to any taxpayer shall not exceed \$2,500.

11 “(2) QUALIFIED TAXPAYER.—A taxpayer is a
12 qualified taxpayer if the taxpayer reasonably expects
13 or knows (as of the due date, determined with re-
14 gard to extensions, for filing its return for the tax-
15 able year in which the active trade or business be-
16 gins) that the taxpayer’s gross receipts for the 12-
17 month period beginning with the month in which the
18 active trade or business begins will not exceed (or
19 has not exceeded) \$500,000.

20 “(3) IN ADDITION TO ELECTION TO AMOR-
21 TIZE.—If the taxpayer makes an election under
22 paragraph (1), start-up expenses that exceed \$2,500
23 may, at the election of the taxpayer, be treated as
24 deferred expenses as provided in subsection (b).

1 “(4) AGGREGATION RULES.—All persons treat-
 2 ed as a single employer under subsection (a) or (b)
 3 of section 52 shall be treated as one person for pur-
 4 poses of this subsection.”.

5 (b) CONFORMING AMENDMENT.—Paragraph (1) of
 6 section 195(e) (as redesignated by subsection (a)) is
 7 amended by striking “subsection (b)” and inserting “sub-
 8 section (b) or (c)”.

9 **SEC. 103. SMALL BUSINESS AMT EXCEPTIONS.**

10 (a) GENERAL RULE.—Part VI of subchapter A of
 11 chapter 1 is amended by inserting after section 58 the fol-
 12 lowing new section:

13 **“SEC. 58A. SPECIAL EXCEPTIONS FOR SMALL BUSINESSES.**

14 “(a) GENERAL RULE.—For purposes of this part—

15 “(1) the adjustments listed in subsection (b),
 16 and

17 “(2) the preferences listed in subsection (c),
 18 shall not be taken into account for any purpose in comput-
 19 ing alternative minimum taxable income from any quali-
 20 fied small business activity of the taxpayer.

21 “(b) ADJUSTMENTS NOT TAKEN INTO ACCOUNT BY
 22 QUALIFIED SMALL BUSINESS TAXPAYERS.—The adjust-
 23 ments listed in this subsection are the adjustments pro-
 24 vided by the following provisions:

25 “(1) Section 56(a)(1) (relating to depreciation).

1 “(2) Section 56(a)(2) (relating to mining explo-
2 ration and development costs).

3 “(3) Section 56(a)(3) (relating to long-term
4 contracts).

5 “(4) Section 56(a)(5) (relating to pollution con-
6 trol facilities).

7 “(5) Section 56(a)(6) (relating to installment
8 sales).

9 “(6) Section 56(b)(2) (relating to circulation
10 and research expenditures).

11 “(7) Section 56(c) (relating to special adjust-
12 ments for corporations).

13 “(c) PREFERENCES NOT TAKEN INTO ACCOUNT BY
14 QUALIFIED SMALL BUSINESSES.—The preferences listed
15 in this subsection are the preferences provided by the
16 following provisions:

17 “(1) Section 57(a)(1) (relating to depletion).

18 “(2) Section 57(a)(2) (relating to intangible
19 drilling costs).

20 “(3) Section 57(a)(4) (relating to bad debts
21 reserve).

22 “(4) Section 57(a)(7) (relating to accelerated
23 depreciation or amortization).

24 “(d) DEFINITIONS.—

1 “(1) QUALIFIED SMALL BUSINESS ACTIVITY.—
2 For purposes of this section, the term ‘qualified
3 small business activity’ means any trade or business
4 activity conducted by an individual or by a corpora-
5 tion or partnership if such individual or entity (as
6 the case may be) meets the \$1,000,000 gross re-
7 ceipts test of paragraph (3) for all prior taxable
8 years beginning after December 31, 1991.

9 “(2) \$1,000,000 GROSS RECEIPTS TEST.—For
10 purposes of paragraph (1)—

11 “(A) IN GENERAL.—An individual or en-
12 tity meets the \$1,000,000 gross receipts test of
13 this subsection for any prior taxable year if the
14 average annual gross receipts of such person or
15 entity for the 3-taxable year period ending with
16 such prior taxable year does not exceed
17 \$1,000,000.

18 “(B) AGGREGATION AND SPECIAL
19 RULES.—For purposes of subparagraph (A),
20 aggregation and special rules similar to the
21 rules of paragraphs (2) and (3) of section
22 448(c) shall apply in determining whether an
23 individual or entity satisfies the \$1,000,000
24 gross receipts test.

1 “(e) FRESH START TRANSITIONAL RULES FOR AN
2 ACTIVITY THAT CEASES TO BE A QUALIFIED SMALL
3 BUSINESS ACTIVITY.—

4 “(1) IN GENERAL.—If an activity ceases to be
5 a qualified small business activity, the adjustments
6 and preferences with respect to the activity listed in
7 subsections (b) and (c) shall be applied in computing
8 alternative minimum taxable income for the taxable
9 year of the cessation and subsequent taxable years
10 by substituting the last day of the last taxable year
11 in which the activity was as a qualified small busi-
12 ness activity for December 31, 1986, and December
13 31, 1989. Any references to January 1, 1987, or
14 January 1, 1990, in sections 56 and 57 shall be
15 treated as if such references were to the first day of
16 the taxable year in which the activity ceased to be
17 a qualified small business activity.

18 “(2) EFFECT OF ADJUSTMENTS PRIOR TO THE
19 ENACTMENT OF THIS SECTION.—

20 “(A) IN GENERAL.—In determining the
21 amount of any adjustments or preferences with
22 respect to an activity in a taxable year in which
23 (or after) the activity ceases to be a qualified
24 small business activity, any of the adjustments
25 listed in subsection (b) and previously taken

1 into account with respect to the activity in a
2 taxable year beginning on or before December
3 31, 1992, shall be disregarded.

4 “(B) FRESH START BASIS.—As of the first
5 day of the taxable year in which an activity
6 ceases to be a qualified small business activity,
7 the basis of the activity’s assets for purposes of
8 determining the regular tax shall be used in
9 computing the adjustments and preferences re-
10 quired under sections 56 and 57.

11 “(f) ELECTION TO BE TREATED AS OTHER THAN
12 A QUALIFIED SMALL BUSINESS ACTIVITY.—An activity
13 may elect to be treated for all taxable years as other than
14 a qualified small business activity. Such election shall be
15 made on or before the due date of the activity’s return
16 (determined without regard to extensions) for the later
17 of—

18 “(1) the first taxable year that the activity is
19 a qualified small business activity, or

20 “(2) the first taxable year beginning after De-
21 cember 31, 1992.

22 “(g) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be necessary or appropriate to
24 carry out the purposes of this section.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for part VI of subchapter A of chapter 1 is amended by
 3 inserting after the item relating to section 58 the following
 4 new item:

“Sec. 58A. Special exceptions for small businesses.”.

5 **SEC. 104. INCREASE IN PERMITTED NUMBER OF SUB-**
 6 **CHAPTER S SHAREHOLDERS.**

7 Subparagraph (A) of section 1361(b)(1) (defining
 8 small business corporation) is amended by striking “35”
 9 and inserting “50”.

10 **TITLE II—ACCOUNTING**
 11 **PROVISIONS**

12 **SEC. 201. INFLATION-ADJUSTED FIFO INVENTORY METHOD**
 13 **FOR CERTAIN SMALL BUSINESSES.**

14 (a) GENERAL RULE.—Subpart D of part II of
 15 subchapter E of chapter 1 (relating to inventories) is
 16 amended by adding at the end thereof the following new
 17 section:

18 **“SEC. 475. INFLATION-ADJUSTED FIFO INVENTORY METH-**
 19 **OD FOR CERTAIN SMALL BUSINESSES.**

20 “(a) GENERAL RULE.—An eligible small business
 21 may elect to use the inflation-adjusted FIFO inventory
 22 method for purposes of valuing all of its inventories.

23 “(b) INFLATION-ADJUSTED FIFO INVENTORY
 24 METHOD OF VALUING INVENTORIES.—For purposes of
 25 this section—

1 “(1) IN GENERAL.—The inflation-adjusted
2 FIFO inventory method of valuing inventories is a
3 method of valuing inventories under which—

4 “(A) the taxpayer maintains its inventory
5 under the first-in, first-out method authorized
6 by section 471, and

7 “(B) cost of goods sold is increased each
8 taxable year by an amount computed by mul-
9 tiplying the applicable Consumer Price Index
10 increase by so much of the total beginning of
11 the year FIFO inventory (computed in subpara-
12 graph (A)) as does not exceed the total ending
13 of the year FIFO inventory.

14 “(2) APPLICABLE CONSUMER PRICE INDEX IN-
15 CREASE.—The term ‘applicable Consumer Price
16 Index increase’ means the percentage increase (if
17 any) in the Consumer Price Index for all-urban con-
18 sumers published by the Department of Labor dur-
19 ing the calendar year ending with or within the tax-
20 able year of the taxpayer.

21 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
22 this section, a taxpayer is an eligible small business for
23 any taxable year if the average annual gross receipts of
24 the taxpayer for the 3 preceding taxable years do not ex-
25 ceed \$10,000,000. For purposes of the preceding sentence,

1 rules similar to the rules of paragraphs (2) and (3) of sec-
2 tion 448(c) shall apply.

3 “(d) 6-YEAR AVERAGING FOR INCREASES IN INVEN-
4 TORY VALUE.—The beginning inventory for the first tax-
5 able year for which the method described in subsection (b)
6 is used (and for all subsequent years that the method is
7 used) shall be valued at cost. Any change in the inventory
8 amount resulting from the application of the preceding
9 sentence shall be taken into account ratably in each of
10 the 6 taxable years beginning with the first taxable year
11 for which the method described in subsection (b) is first
12 used.

13 “(e) SPECIAL RULES.—For purposes of this sec-
14 tion—

15 “(1) ELECTION.—

16 “(A) IN GENERAL.—The election under
17 this section may be made without the consent
18 of the Secretary.

19 “(B) PERIOD TO WHICH ELECTION AP-
20 PLIES.—The election under this section shall
21 apply—

22 “(i) to the taxable year for which it is
23 made, and

24 “(ii) to all subsequent taxable years
25 for which the taxpayer is an eligible small

1 business, unless the taxpayer secures the
2 consent of the Secretary to the revocation
3 of such election.

4 “(2) CHANGES IN METHOD OF ACCOUNTING.—

5 “(A) TAXPAYERS CHANGING FROM LIFO
6 TO THE METHOD UNDER THIS SECTION.—In
7 the case of a change from a LIFO method
8 under section 472 or 474 to an election under
9 this section—

10 “(i) beginning inventory shall be re-
11 stated to FIFO as described in subsection
12 (b), and

13 “(ii) the difference between restated
14 inventory computed in clause (i) and the
15 basis of the taxpayer’s inventory computed
16 under LIFO will be treated as an increase
17 to basis of inventory with no corresponding
18 increase to income.

19 “(B) TAXPAYERS CHANGING FROM THE
20 METHOD UNDER THIS SECTION TO LIFO.—A
21 taxpayer changing its method of accounting to
22 LIFO from the method prescribed in this sec-
23 tion—

24 “(i) may change its method of ac-
25 counting without the consent of the Com-

1 missioner, provided the taxpayer has not
 2 used the LIFO method within the past 6
 3 taxable years, and

4 “(ii) must comply with section 472
 5 and the regulations thereunder regarding
 6 the adoption of LIFO.

7 “(C) TAXPAYERS CHANGING FROM THE
 8 METHOD UNDER THIS SECTION TO FIFO.—A
 9 taxpayer changing its method of accounting to
 10 FIFO from the method prescribed in this sec-
 11 tion may change its method of accounting with-
 12 out the consent of the Commissioner.

13 “(f) REGULATIONS.—The Secretary shall be author-
 14 ized to prescribe regulations necessary to carry out the
 15 purposes of this section.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
 17 for subpart D of part II of subchapter E of chapter 1
 18 is amended by adding at the end thereof the following new
 19 item:

 “Sec. 475. Inflation-adjusted FIFO method for certain small busi-
 nesses.”.

20 **SEC. 202. EXEMPT SMALL BUSINESS FROM THE UNIFORM**
 21 **CAPITALIZATION RULES.**

22 (a) AMENDMENTS TO SECTION 263A.—

1 (1) IN GENERAL.—Subsection (c) of section
2 263A is amended by adding at the end thereof the
3 following new paragraph:

4 “(7) TAXPAYERS WITH GROSS RECEIPTS OF
5 \$10,000,000 OR LESS.—

6 “(A) IN GENERAL.—This section shall not
7 apply to any taxpayer if the average annual
8 gross receipts of the taxpayer (or any prede-
9 cessor) for the 3-taxable year period ending
10 with the taxable year preceding such taxable
11 year do not exceed \$10,000,000. For purposes
12 of the preceding sentence, rules similar to the
13 rules of paragraphs (2) and (3) of section
14 448(c) shall apply.

15 “(B) CHANGES IN METHOD OF ACCOUNT-
16 ING.—Except as otherwise provided by the Sec-
17 retary through regulations (or other administra-
18 tive guidance), a taxpayer changing its method
19 of accounting by reason of satisfying or failing
20 to satisfy the \$10,000,000 average annual gross
21 receipts test in subparagraph (A) must obtain
22 the consent of the Secretary to change its meth-
23 od of accounting.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Paragraph 2 of section 263A(b) is
2 amended to read as follows:

3 “(2) PROPERTY ACQUIRED FOR RESALE.—Real
4 or personal property described in section 1221(1)
5 which is acquired by the taxpayer for resale.”.

6 (B) Subsection (i)(2) of section 263A is
7 amended by striking “in the case of property
8 described in subsection (b)(2)”.

9 (b) AMENDMENT TO SECTION 471.—Section 471 (re-
10 lating to general rules for inventories) is amended by re-
11 designating subsection (b) as subsection (c) and inserting
12 after subsection (a) the following new subsection:

13 “(b) COST CAPITALIZATION FOR TAXPAYERS WITH
14 GROSS RECEIPTS THAT DO NOT EXCEED \$1,000,000.—

15 “(1) IN GENERAL.—If a taxpayer’s average an-
16 nual gross receipts for its immediately preceding
17 three taxable years do not exceed \$1,000,000 the
18 taxpayer shall not be required to include in its in-
19 ventory costs any indirect costs incurred. For pur-
20 poses of the preceding sentence, indirect costs in-
21 clude all costs other than direct costs of acquiring
22 or producing the inventory. For purposes of this
23 subsection, rules similar to the rules of paragraphs
24 (2) and (3) of section 448(c) shall apply in deter-

1 mining whether a taxpayer has average annual gross
2 receipts that do not exceed \$1,000,000.

3 “(2) CHANGES IN METHOD OF ACCOUNTING.—
4 Except as otherwise provided by the Secretary
5 through regulations (or other administrative guid-
6 ance), a taxpayer changing its method of accounting
7 by reason of satisfying or failing the \$1,000,000 av-
8 erage annual gross receipts test in paragraph (1)
9 must obtain the consent of the Secretary to change
10 its method of accounting for indirect costs under
11 paragraph (1).”.

12 (c) AMENDMENT TO SECTION 263.—Section 263 (re-
13 lating to capital expenditures) is amended by adding at
14 the end thereof the following new subsection:

15 “(j) COST CAPITALIZATION FOR TAXPAYERS WITH
16 GROSS RECEIPTS THAT DO NOT EXCEED \$1,000,000.—
17 If a taxpayer’s average annual gross receipts for its imme-
18 diately preceding 3 taxable years do not exceed
19 \$1,000,000, the taxpayer shall not be required to capital-
20 ize any indirect costs incurred in the taxpayer’s current
21 taxable year to its capital expenditures. For purposes of
22 the preceding sentence, indirect costs include all costs
23 other than direct costs. For purposes of this subsection,
24 rules similar to the rules of paragraphs (2) and (3) of sec-
25 tion 448(c) shall apply in determining whether a taxpayer

1 has average annual gross receipts that do not exceed
2 \$1,000,000.”.

3 (d) EFFECTIVE DATES.—

4 (1) SPECIAL RULE APPLICABLE TO INVENTORY
5 PROPERTY.—

6 (A) IN GENERAL.—The amendments made
7 by subsections (a) and (b) shall apply to taxable
8 years beginning after December 31, 1992.

9 (B) CHANGE IN METHOD OF ACCOUNT-
10 ING.—If the taxpayer is permitted by the
11 amendments made by this section to change its
12 method of accounting with respect to inventory
13 for its 1st taxable year beginning after Decem-
14 ber 31, 1992—

15 (i) such change shall be treated as ini-
16 tiated by the taxpayer,

17 (ii) such change shall be treated as
18 made with the consent of the Secretary,

19 (iii) the net amount of adjustments
20 required by section 481 of the Internal
21 Revenue Code of 1986 shall be taken into
22 account over a period not longer than 3
23 years.

24 In applying clause (iii), however, the Secretary
25 may prescribe any other administrative proce-

dures (for example, a cut-off method) for effecting the permitted method change which would prevent duplications or omissions of income or deductions, and thus make adjustments under section 481 unnecessary.

(2) NONINVENTORY EFFECTIVE DATE.—The amendments made by subsection (c) shall apply with respect to costs incurred in taxable years beginning after December 31, 1992.

SEC. 203. EXEMPTION OF SMALL BUSINESSES FROM LONG-TERM CONTRACT RULES.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 460(e) is amended to read as follows:

“(1) IN GENERAL.—

“(A) Subsections (a), (b), and (c) (1) and (2) shall not apply to any home construction contract.

“(B) This section shall not apply to any other contract entered into by a taxpayer whose average annual gross receipts for the 3 taxable years immediately preceding the taxable year in which such contract is entered into do not exceed \$10,000,000.

1 In the case of a home construction contract with re-
2 spect to which the requirements of subparagraph
3 (B) are not met, section 263A shall apply notwith-
4 standing subsection (c)(4) thereof.”.

5 (2) The subsection heading for subsection (e) of
6 section 460 is amended by striking “CONSTRUC-
7 TION”.

8 (b) AMT EXCEPTION FOR SMALL CONTRACTORS.—
9 Paragraph (3) of section 56(a) is amended to read as fol-
10 lows:

11 “(3) TREATMENT OF CERTAIN LONG-TERM
12 CONTRACTS.—In the case of any long-term contract
13 entered into by the taxpayer on or after March 1,
14 1986, the taxable income from such contract shall be
15 determined under the percentage of completion
16 method of accounting (as modified by section
17 460(b)). The preceding sentence shall not apply to
18 any contract described in section 460(e)(1).”.

19 (c) AMENDMENTS TO SECTION 451.—Section 451 is
20 amended by adding at the end thereof the following new
21 subsection:

22 “(h) SPECIAL RULE FOR DETERMINING INCOME
23 FROM A LONG-TERM CONTRACT FOR ELIGIBLE TAX-
24 PAYERS.—

1 “(1) IN GENERAL.—A taxpayer shall not be re-
 2 quired to allocate indirect costs to any long-term
 3 contract entered into during a taxable year for which
 4 the taxpayer is an eligible taxpayer.

5 “(2) ELIGIBLE TAXPAYER.—For purposes of
 6 this subsection, an ‘eligible taxpayer’ is a taxpayer
 7 whose average annual gross receipts for the 3 tax-
 8 able years immediately preceding the current taxable
 9 year do not exceed \$1,000,000. For purposes of the
 10 preceding sentence, rules similar to the rules of
 11 paragraphs (2) and (3) of section 448(c) shall apply
 12 in determining whether a taxpayer has average an-
 13 nual gross receipts that do not exceed \$1,000,000.

14 “(3) INDIRECT COSTS.—For purposes of this
 15 subsection, indirect costs are all costs other than di-
 16 rect costs.”.

17 (d) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to contracts entered into in taxable
 19 years beginning after December 31, 1992.

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